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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10-335,373	10/19/2001	Helmut Zecha	06208 USA	2057
AIR PRODUCTS AND CHEMICALS, INC. PATENT DEPARTMENT 7001 HAMILTON BOULEVARD ALLENTOWN, PA 181951501				
EXAMINER NILAND, PATRICK DENNIS				
ART UNIT 1714				
PAPER NUMBER				

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/035,373

**Applicant(s)**

ZECHA ET AL.

**Examiner**

Patrick D. Niland

**Art Unit**

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 9-17, and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4128518 Oyamada et al..

Oyamada et al. discloses the instantly claimed vinyl acetate emulsion obtained by the instantly claimed method except that the patentee is silent regarding the instantly claimed particle size and shear thinning factor. It is expected that the emulsion of the patentee necessarily inherently possesses these parameters since the other ingredients and method steps fall within the scope of the instantly claimed method which is expected to give the instantly claimed parameters. Furthermore, the instantly claimed particle sizes are those of typical emulsion polymers. It is expected that the emulsion of the patentee necessarily inherently possesses the particle size reduction of the instant claims because the ingredients and method steps otherwise fall within the scope of the instantly claimed method which is expected to give the instantly claimed parameter.

Also, chain transfer agent gives reduced molecular weight which is expected to give smaller particle sizes.

4. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 4128518 Oyamada et al..

Oyamada et al. discloses the instantly claimed vinyl acetate emulsion obtained by the instantly claimed method except that the patentee is silent regarding the instantly claimed particle size and shear thinning factor. It is expected that the emulsion of the patentee necessarily inherently possesses these parameters since the other ingredients and method steps fall within the scope of the instantly claimed method which is expected to give the instantly claimed parameters. Furthermore, the instantly claimed particle sizes are those of typical emulsion polymers. It is expected that the emulsion of the patentee necessarily inherently possesses the particle size reduction of the instant claims because the ingredients and method steps otherwise fall within the scope of the instantly claimed method which is expected to give the instantly claimed parameter. Also, chain transfer agent gives reduced molecular weight which is expected to give smaller particle sizes.


It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the chain transfer agents of the instant claims because the patentee encompasses chain transfer agents generically and the instantly claimed compounds would have been expected to function as chain transfer agents because they are well known as chain transfer agents. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the amount of chain transfer agent of

the instant claims because even very low amounts of this compound are expected to give the desired lowering of molecular weight since the compounds are not consumed during the chain transfer reaction.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 703-308-3510. The examiner can normally be reached on Monday to Friday from 10am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 703-306-2777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Patrick D. Niland  
Primary Examiner  
Art Unit 1714